

(3-8)

THE BRIGHAM SURGICAL GROUP FOUNDATION, Inc.

CORPORATE BYLAWS

December 22, 1976

As Amended

**April 6, 1977
August 10, 1978
October 12, 1978
November 15, 1979
July 31, 1985
March 16, 1987**

Note

This is a conformed version of the Bylaws that incorporates all amendments. The original attested copy of the Bylaws annotated for all amendments is kept at the Corporate Business Office, 110 Cypress Street, Brookline, MA 02146 and is available for inspection by Members of the Corporation.

BYLAWS OF
THE BRIGHAM SURGICAL GROUP FOUNDATION, Inc.

ARTICLE I - The Corporation

1. Name. The name of the Corporation is "The Brigham Surgical Group Foundation, Inc." (hereinafter in these Bylaws referred to as the "Corporation").
2. Purpose. The Corporation is a non-profit charitable organization incorporated under the laws of Massachusetts for the purpose of educating medical students and surgical residents, carrying on a program of research in surgery and related fields and maintaining the Department of Surgery at the Brigham and Women's Hospital, a teaching hospital, so as to perform the surgical and surgical teaching functions of said hospital and certain of the surgical teaching functions of the Harvard Medical School.

ARTICLE II - Members

1. Eligibility. The Members of the Corporation shall be those physicians registered to practice medicine in The Commonwealth of Massachusetts who have been appointed to the rank of Junior Associate or higher on the medical staff of the Department of Surgery of the Harvard Medical School at the Brigham and Women's Hospital by the Board of Trustees of that Hospital and who have entered into a written employment agreement with the Corporation and those members of the Associate staff who hold full-time appointments at Harvard University and who have entered into a written employment agreement with the Corporation.
2. Place of Meetings. All meetings of Members shall be held within Massachusetts at the principal office of the Corporation unless a different place is fixed by the Directors or the PRESIDENT and stated in the notice of the meeting.
3. Annual Meeting. The Annual Meeting of Members shall be held on the first Tuesday in December in each year (or if that be a legal holiday in the place where the meeting is to be held, on the next succeeding full business day) at 10 o'clock A.M., unless a different hour is fixed by the Directors or the PRESIDENT and stated in the notice of the meeting. The purposes for which the Annual Meeting is to be held, in addition to those prescribed by law, by the Articles of Organization or by these Bylaws, may be specified by the Directors or the PRESIDENT. If no Annual Meeting is held in accordance with the foregoing provisions, a special meeting may be held in lieu thereof and any action taken at such meeting shall have the same effect as if taken at the Annual Meeting.
4. Special Meetings. Special Meetings of the Members may be called by the PRESIDENT or by the Directors. Upon the written application of three or more Members, special meetings shall be called by the SECRETARY, or in the case of the death, absence, incapacity or refusal of the SECRETARY, by any other officer.

5. Notice of Meetings. A written notice of every meeting of the Members stating the place, date and hour thereof, and the purposes for which the meeting is to be held, shall be given by the SECRETARY or other person calling the meeting at least seven days before the meeting to each Member entitled to vote thereat and to each Member who, by law, by the Articles of Organization or by these Bylaws, is entitled to such notice, by leaving such notice with him or at his residence or usual place of business, or by mailing it postage prepaid and addressed to him at his address as it appears upon the books of the Corporation. Whenever any notice is required to be given to a Member by law, by the Articles of Organization or by these Bylaws, no such notice need be given if a written waiver of notice, executed before or after the meeting by the Member or his attorney thereunto duly authorized, is filed with the records of the meeting.
6. Quorum. Unless the Articles of Organization otherwise provide, one-third of the total membership shall constitute a quorum with respect to any matter.
7. Adjournments. Any meeting of the Members may be adjourned to any other time and to any other place at which a meeting of the Members may be held under these Bylaws by the Members present or represented at the meeting, although less than a quorum, or by any officer entitled to preside or to act as secretary of such meeting, if no Member is present. It shall not be necessary to notify any Member of any adjournment. Any business which could have been transacted at any meeting of the Members as originally called may be transacted at any adjournment thereof.
8. Voting and Proxies. All Corporation Members shall have one vote each and may vote either in person or by written proxy dated not more than six months before the meeting named therein. Proxies shall be filed with the SECRETARY of the meeting, or of any adjournment thereof, before being voted. Except as otherwise limited therein, proxies shall entitle the persons named therein to vote at any adjournment of such meeting, but shall not be valid after final adjournment of such meeting. A proxy purported to be executed by or on behalf of a Member shall be deemed valid unless challenged at or prior to its exercise.
9. Action at Meeting. When a quorum is present, any election by Members shall be determined by a majority of the votes cast by the Members entitled to vote at the election, except when a larger vote is required by law, these Bylaws or the Articles of Organization. No ballot shall be required for such election unless requested by a Member present or represented at the meeting and entitled to vote in the election.
10. Action Without Meeting. Any action required or permitted to be taken at any meeting of the Members may be taken without a meeting if all Members entitled to vote on the matter consent to the action in writing and the written consents are filed with the records of the meetings of Members. Each such consent shall be treated for all purposes as a vote at a meeting.
11. Resignation and Termination. Members of the Corporation may resign at any time by written notice of resignation filed with the SECRETARY. Written notice to the Corporation, either by a Member or by the Brigham and Women's Hospital, of termination of the Member's appointment on the staff of the Department of Surgery of the Harvard Medical School at the Brigham and Women's Hospital, shall be deemed termination of membership in the Corporation.

ARTICLE III - DIRECTORS

1. Powers. The business of the Corporation shall be managed by a Board of Directors who may exercise all the powers of the Corporation except as otherwise provided by law, by the Articles of Organization or by these Bylaws. In the event of a vacancy on the Board of Directors, the remaining Directors, except as otherwise provided by law, may exercise the powers of the full Board until the vacancy is filled.
2. Eligibility. Members of the Corporation and persons representing the general public having an interest in furthering the educational, scientific and other charitable objectives of the Corporation shall be eligible for election to the Board of Directors.
3. Election. There shall be a Board of not less than seven (7) Directors. The number of Directors shall initially be determined, and Directors be elected, by vote of the incorporators at their first meeting, the Directors so elected to serve until the first annual meeting of the Members of the Corporation and until their respective successors shall have been duly elected and qualified. Thereafter, the number of Directors shall be determined annually, either at the Annual Meeting of the Members or at a special meeting called for that purpose, but in the absence of an affirmative determination, the number to be elected shall be the same as the number last previously determined. The Board of Directors may be enlarged by the Members at any meeting or by vote of a majority of the Directors then in office.

The PRESIDENT of the Corporation shall be a member of the Board of Directors by virtue of his office and shall be entitled to vote on all matters. At least three (3) of the members of the Board of Directors shall be "outside Directors". "Outside Directors" refers to Directors who are not officers or employee of the Corporation or of another organization controlled by or under common control with the Corporation. The outside Directors shall be chosen by ballot at the Annual Meeting of the Members or at a special meeting held in place thereof.

The elected Directors (excluding the outside Directors) shall always be an even number of Directors, one-half of whom shall be chosen by a ballot at the Annual Meeting of the Members or at any special meeting held in place thereof and the remaining half of whom shall be elected by the PRESIDENT.

4. Vacancies. Any vacancy in the Board of Directors, however occurring, including a vacancy resulting from the enlargement of the Board, unless and until filled by the Members, may be filled by a majority of the Directors present at any meeting of Directors at which a quorum is present.
5. Term. Subject to law, to the Articles of Organization and to the other provisions of these Bylaws, the initial Board of Directors (other than the PRESIDENT) elected by the Members of the Corporation and the PRESIDENT shall be divided into three (3) categories depending upon their term, one-third shall be elected for a three (3) year term, one-third shall be elected for a two (2) year term, and the remaining one-third shall be elected for a one (1) year term. The number of directors in any one category shall be evenly divided between those elected by the PRESIDENT and those elected by the Members of the Corporation. Thereafter, each director shall serve for a term of three (3) years, and until his successor is duly chosen and qualified.

In the event that the PRESIDENT resigns, is removed or unable to serve, the Acting Surgeon-In-Chief of the Department of Surgery shall serve as the PRESIDENT Pro Tem and perform the duties of the PRESIDENT. Upon the qualification of the new PRESIDENT, he may call a special meeting of the membership to elect a new Board of Directors. The existing Board of Directors shall resign or be deemed to have been removed at or prior to such special meeting and the new Board of Directors shall be elected as provided for in Article III (3) to fill the balance of the term of the directors replaced.

At the Annual Meeting of the Members for 1985 or at any special meeting held in place thereof, that portion of the Board of Directors consisting of outside Directors shall be divided into three (3) categories depending on their term and one third shall be elected for a six (6) year term, one-third shall be elected for a four (4) year term, and the remaining one-third shall be elected for a two (2) year term. Thereafter, each outside Director shall serve for a term of six (6) years and until his successor is duly chosen and qualified.

6. Removal. A Director may be removed from office with or without cause by vote of the majority of the Members. In addition, a Director may be removed from office for cause by vote of a majority of the Directors then in office. A Director may be removed for cause only after reasonable notice and opportunity to be heard before the body proposing to remove him.
7. Meetings. Regular meetings of the Directors may be held without call or notice at such places, within or without Massachusetts, and at such times as the Directors may from time to time determine, provided that any Director who is absent when such determination is made shall be given notice of the determination. A regular meeting of the Directors may be held without a call or notice at the same place as the Annual Meeting of Members, or the special meeting held in lieu thereof, following such meeting of Members.

Special meetings of the Directors may be held at any time and place, within or without Massachusetts, designated in a call by the PRESIDENT, TREASURER or two or more Directors.

Directors or members of any committee designated thereby may participate in a meeting of such Directors or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time and participation by such means shall constitute presence in person at a meeting.

8. Notice of Special Meetings. Notice of all special meetings of the Directors shall be given to each Director by the SECRETARY, or in the case of the death, absence, incapacity or refusal of such person, by the officer or one of the Directors calling the meeting. Notice shall be given to each Director in person or by telephone or by telegram sent to his business or home address at least forty-eight hours in advance of the meeting, or by written notice mailed to his business or home address at least seventy-two hours in advance of the meeting. Notice need not be given to any Director if a written waiver of notice executed by him before or after the meeting is filed with the records of the meeting, or to any Director who attends the meeting without protesting thereto or at its commencement the lack of notice to him. A notice or waiver of notice of a Director's meeting need not specify the purpose of the meeting.

9. Quorum. At any meeting of the Directors, a majority of the Directors then in office shall constitute a quorum. Less than a quorum may adjourn the meeting from time to time without further notice.
10. Action at Meeting. At any meeting of the Directors at which a quorum is present, the vote of a majority of those present, unless a different vote is specified by law, by the Articles of Organization or by these Bylaws, shall be sufficient to take any action.
11. Action by Consent. Any action required or permitted to be taken at any meeting of the Directors may be taken without a meeting if all the Directors consent to the action in writing and the written consents are filed with the records of the Directors' meetings. Each such consent shall be treated for all purposes as a vote at a meeting.
12. Committees. "Executive Committee". There shall be an Executive Committee which may exercise all the powers of the Board or Directors except those powers which by law or the Articles of Organization must be retained by the Board of Directors and those powers which are invested by these Bylaws in the Committee on Compensation. The Board of Directors may, by vote of a majority of the Directors then in office, restrict the powers of the Executive Committee from time to time. The Board of Directors may at any time exercise all of its powers as if the Executive Committee were not in existence. The Executive Committee shall consist of those members of the Board of Directors as may from time to time be selected by the PRESIDENT.

"Committee on Compensation". There shall be a Committee on Compensation which shall have final authority respecting all compensation arrangements (whether contractual or informal) between the Corporation and its Officers, Directors and Employees. "compensation arrangements" refers to salaries, bonuses, welfare and pension plans and any other payment or provision of money, goods or services to Officers, Directors and Employees and their families and beneficiaries.

Compensation arrangements shall be established with a view to adequacy, reasonableness and propriety in light of the educational, scientific and other charitable objectives of the Corporation. In determining the compensation of any individual, his or her activity resulting in the production of revenue shall be a relevant consideration, but not the sole or primary consideration. Other relevant considerations include pedagogical activity or scholarship and participation in the governance of the Corporation by committee work and similar activity.

The Committee shall maintain records of its proceedings available for inspection by the Harvard Medical School, the Brigham and Women's Hospital and such governmental agencies as may have authority to review the activities of charitable organizations.

The Committee shall consist of 4 members of whom 3 shall be outside Directors and the fourth shall be the PRESIDENT. "Outside Directors" refers to Directors who are not officers or employees of the Corporation or of another organization controlled or under common control with the Corporation. No quorum shall be deemed to exist unless at least 2 outside Directors are present. A Committee member shall serve for one (1) year and thereafter until a successor is chosen and qualified.

There shall be elected from among the members of the Board of Directors a fifth member of the Committee who shall not be an outside Director and who shall be entitled only to the opportunity to attend and be heard at meetings of the Committee; the fifth member shall have no vote on Committee business and his or her presence shall not be required for a quorum.

The Directors may, by vote of a majority of the Directors then in office, elect from their number other committees and may by like vote delegate thereto some or all of their powers except those which by law, the Articles of Organization or these Bylaws they are prohibited from delegating. Except as the Directors may otherwise determine, any such committee may make rules for the conduct of its business, but unless otherwise provided by the Directors or in such rules, its business shall be conducted as nearly as may be in the same manner as is provided by these Bylaws for the Directors.

ARTICLE IV - Officers

1. Enumeration. The officers of the Corporation shall consist of a PRESIDENT, a TREASURER, a SECRETARY, and such other officers, including a Chairman of the Board, one or more VICE PRESIDENTS, ASSISTANT TREASURERS, ASSISTANT CLERKS, and ASSISTANT SECRETARIES as the Directors may determine.
2. Election. The PRESIDENT, TREASURER, and SECRETARY shall be elected annually by the Directors at their first meeting following the Annual Meeting of the Members. Other officers may be appointed by the Directors at such meeting or at any other meeting.
3. Qualification. The PRESIDENT shall be a Director. No officer need be a Member. Any two or more offices may be held by the same person, provided that the PRESIDENT and SECRETARY shall not be the same person. The SECRETARY shall be a resident of Massachusetts unless the Corporation has a resident agent appointed for the purpose of service of process. Any officer may be required by the Directors to give bond for the faithful performance of his duties to the Corporation in such amount and with such sureties as the Directors may determine.
4. Tenure. Except as otherwise provided by law, by the Articles of Organization or by these Bylaws, the PRESIDENT, TREASURER and SECRETARY shall hold office until the first meeting of the Directors following the Annual Meeting of the Members and thereafter until their successors are chosen and qualified; and all other officers shall hold office until the first meeting of the Directors following the Annual Meeting of the Members, unless a different term is specified in the vote choosing or appointing them. Any officer may resign by delivering his written resignation to the Corporation at its principal office or to the PRESIDENT or SECRETARY and such resignation shall be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.
5. Removal. The Directors may remove any officer with or without cause by a vote of a majority of the entire number of Directors then in office, provided that an officer may be removed for cause only after reasonable notice and opportunity to be heard by the Board of Directors prior to action thereon.

6. PRESIDENT. The Surgeon-In-Chief of the Department of Surgery of the Harvard Medical School at the Brigham and Women's Hospital shall be the PRESIDENT of the Corporation. The PRESIDENT shall be the chief executive officer of the Corporation. He shall preside at all meetings of the Members and of the Board of Directors. He shall be the chairman of the Board of Directors. He shall have custody of the TREASURER'S bond, if any is required. He shall be a member of all committees by virtue of his office.
7. VICE PRESIDENT. The VICE PRESIDENT, or if there shall be more than one, the VICE PRESIDENTS in the order determined by the Directors, shall, in the absence or disability of the PRESIDENT, perform the duties and exercise the powers of the PRESIDENT and shall perform such other duties and shall have such other powers as the Directors may from time to time prescribe.
8. TREASURER and ASSISTANT TREASURERS. The TREASURER shall, subject to the direction of the Directors, have general charge of the financial affairs of the Corporation and shall cause to be kept accurate books of account. He shall have custody of all funds, securities and valuable documents of the Corporation, except as the Directors may otherwise provide.

The ASSISTANT TREASURER, or if there shall be more than one, the ASSISTANT TREASURERS in the order determined by the Directors, shall, in the absence or disability of the TREASURER, perform the duties and exercise the powers of the TREASURER, and shall perform such other duties and shall have such other powers as the Directors may from time to time prescribe.

9. SECRETARY and ASSISTANT SECRETARY. The SECRETARY shall be a resident of Massachusetts. He shall keep a true and accurate record of the meetings of the Board of Directors and of the Members in books provided therefor, which books shall be open at all reasonable times to the inspection of any Member. He shall serve all notices as directed by the proper officers of the Corporation. He shall deliver to the membership, the Board of Directors or the proper officer, as the case may be, any communications received by him. All books and records, other than fiscal records, of the Corporation shall be in the custody of the SECRETARY, including, but not limited to the minute books, the Articles of Organization, and attested copy of the Bylaws with marginal references to all amendments thereto.

The ASSISTANT SECRETARY shall, in the absence or disability of the SECRETARY, perform the duties and exercise the powers of the SECRETARY, and shall perform such other duties and have such other powers as the Directors may from time to time prescribe.

10. Other Powers and Duties. Each officer shall, subject to these Bylaws, have in addition to the duties and powers specifically set forth in these Bylaws such duties and powers as are customarily incident to his office and such duties and powers as the Directors may from time to time designate.

ARTICLE V - Miscellaneous Provisions

1. Fiscal Year. Except as from time to time otherwise determined by the Directors, the fiscal year of the Corporation shall be 1 July - 30 June.
2. Seal. The seal of the Corporation shall, subject to alteration by the Directors, bear its name, the word "Massachusetts," and the year of its incorporation.
3. Execution of Instruments. All checks, deeds, leases, transfers, contracts, bonds, notes and other obligations authorized to be executed by an officer of the Corporation in its behalf shall be signed by the PRESIDENT or the TREASURER except as the Directors may generally or in particular cases otherwise determine.
4. Corporate Records. The original, or attested copies, of the Articles of Organization, Bylaws and records of all meetings of the incorporators and Members, and the transfer records, which shall contain the names of all Members and the record address of each, shall be kept in Massachusetts at the principal office of the Corporation, or at an office of its transfer agent or of the SECRETARY. Said copies and records need not all be kept in the same office. They shall be available at all reasonable times for the inspection of any Member for any proper purpose, but not to secure a list of Members for the purpose of selling said list or copies thereof or of using the same for a purpose other than in the interest of the applicant, as a Member, relative to the affairs of the Corporation.
5. Evidence of Authority. A certificate by the SECRETARY, or ASSISTANT SECRETARY, or temporary SECRETARY, as to any action taken by the Members, Directors, Executive Committee or any officer or representative of the Corporation shall as to all persons who rely thereon in good faith be conclusive evidence of such action.
6. Articles of Organization. All references in these Bylaws to the Articles of Organization shall be deemed to refer to the Articles of Organization of the Corporation, as amended and in effect from time to time.
7. Transactions with Interested Parties. In the absence of fraud, no contract or other transaction between this corporation and any other corporation or any firm, association, partnership or person shall be affected or invalidated by the fact that any Director or officer of this corporation is pecuniarily or otherwise interested in or is a director, member or officer of such other corporation or of such firm, association or partnership or is a party to or is pecuniarily or otherwise interested in such contract or other transaction or is in any way connected with any person or persons, firm, association, partnership, or corporation pecuniarily or otherwise interested therein; provided that the fact that he individually or as a director, member or officer of such corporation, firm, association or partnership is such a party or is so interested shall be disclosed to or shall have been known by the Board of Directors or a majority of such members thereof as shall be present at a meeting of the Board of Directors at which action upon any such contract or transaction shall be taken; any Director may vote at any meeting of the Board of Directors of this corporation for the purpose of authorizing any such contract or

transaction with like force and effect as if he were not so interested, or were not a director, member or officer of such other corporation, firm, association or partnership, provided that any vote with respect to such contract or transaction must be adopted by a majority of the Directors then in office who have no interest in such contract or transaction.

8. Indemnification. The Corporation shall indemnify each person (and his heirs, executors, administrators, or other legal representatives) who is or shall have been, a Director or officer of the Corporation or any person who is serving, or shall have served, at the request of the Corporation as a Director or officer of another organization in which the Corporation owns shares or of which it is a creditor against all liabilities and expenses (including judgments, fines, penalties and attorneys' fees and all amounts paid, other than to the Corporation or such other organization, in compromise or settlement) reasonably incurred by any such Director, officer, or person in connection with, or arising out of, any action, suit or proceeding in which any such Director, officer, or person may be a party defendant or with which he may be threatened or otherwise involved, directly or indirectly, by reason of his being or having been a Director or officer of the Corporation or such other organization, except in relation to matters as to which any such Director, officer, or person shall be finally adjudged (other than by consent) in such action, suit or proceeding not to have acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation or such other organization, and, with respect to any criminal action or proceeding he had no reasonable cause to believe his conduct was unlawful; provided, however, that indemnity shall not be made with respect to any such amounts paid in compromise or settlement or by consent, unless the Board of Directors shall have determined in good faith that the Director, officer or person making such compromise, settlement, or consent acted, in connection with the matter or matters out of which such compromise, settlement or consent arose, in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation or such other organization, and, with respect to any criminal action or proceeding that he had no reasonable cause to believe his conduct was unlawful. Such Indemnification may include payment by the Corporation of expenses in defending a civil or criminal action or proceeding in advance of the final disposition of such action or proceeding upon receipt of any undertaking by the person indemnified to repay such payment if he shall be adjudicated to be not entitled to Indemnification under this section.

The foregoing right of Indemnification shall not be exclusive of any other rights to which any such Director, officer or person is entitled under any agreement, vote of stockholders, statute, or as a matter of law, or otherwise. The provisions of this section are separable, and if any provision or portion hereof shall for any reason be held inapplicable, illegal or ineffective, this shall not affect any other right of Indemnification existing under this section.

9. Tax Exemption. It is intended that the Corporation be treated as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1954, as amended, and notice shall be given to the SECRETARY of the Treasury or his delegate as provided in Section 508(a) of said Code. It is also intended that the Corporation not be classified as a "private foundation" under Section 509(a) of the Code. Notwithstanding any other provision in these Bylaws to the contrary, for so long as the Corporation constitutes a private foundation as defined under Section 509 of said Code, all requirements and prohibitions

described in Section 508(e)(1) of said Code are incorporated herein by reference and hereby made applicable to the Corporation; and, without limitation of the foregoing, the Corporation shall act or refrain from acting so as not to subject itself to the taxes imposed by the following sections of the Code, to wit: 4841 (relating to taxes on self-dealing), 4942 (relating to taxes on failure to distribute income), 4943 (relating to taxes on excess business holdings), 4944 (relating to taxes on investments which jeopardize charitable purpose), and 4945 (relating to taxable expenditures).

ARTICLE VI - Amendments

These Bylaws may be amended by the affirmative vote of a majority of the Members, provided that notice of the substance of the proposed amendment is stated in the notice of such meeting. If authorized by the Articles of Organization, the Directors, by a majority of their number then in office, may also make, amend or repeal these Bylaws, in whole or in part, except with respect to (a) the provisions of these Bylaws governing (i) the removal of Directors, (ii) the Indemnification of Directors and (iii) the amendment of these Bylaws and (b) any provisions of these Bylaws that requires action by the Members. No change in the date fixed in these Bylaws for the Annual Meeting of Members may be made within sixty days before the date fixed in these Bylaws, and in case of any change in such date, notice thereof shall be given to each Member in person or by letter mailed to his last known post office address at least twenty days before the new date fixed for such meeting.

Not later than the time of giving notice of the meeting of Members next following the making, amending or repealing by the Directors of any Bylaw, notice thereof stating the substance of such change shall be given to all Members entitled to vote on amending the Bylaws.

Any Bylaw adopted by the Directors may be amended or repealed by the Members entitled to vote on amending the Bylaws.

ARTICLE VII - Divisions

The Board of Directors may establish divisions within the Corporation as it determines appropriately reflects various specializations in the Department of Surgery, and shall appoint, from time to time, a chief of each such division so established. Members of the Corporation who are not assigned to a division shall be members of the Surgical Division.

ARTICLE VIII - Nondiscriminatory Policy

The Corporation will not discriminate on the basis of race, color, sex, national or ethnic origin in the administration of its educational policies, admission policies or financial assistance policies.

ARTICLE IX - Educational and Research Endowment Fund (EREF)

The Corporation shall establish an asset reserve or similar account in the nature of a restricted endowment fund or, in its discretion, a separate corporation or trust controlled by the Corporation, to be known as the Educational and Research Endowment Fund (EREF). The EREF shall be used exclusively for research and instruction in surgery and related fields, its assets shall not be applied in discharge of the obligations of the Corporation or be commingled with the Corporation's general assets. In a proper case, the EREF shall be subject of application cy pres or other court proceedings appropriate to restricted endowments of public charities, giving Brigham and Women's Hospital and the Harvard Medical School equal first priority in any application cy pres.

The Corporation shall annually or oftener add to the EREF a percentage of the Corporation's adjusted net income. The percentage shall be established from time to time by standing resolution, adopted or amended by vote of two-thirds (2/3) of the Board of Directors. For this purpose, "adjusted net income" means net income adjusted to exclude extraordinary income items (such as life and casualty insurance proceeds and proceeds from the disposition or conversion to capital of depreciable assets) not reflective of the Corporation's regularly predictable income. The determinations of the Corporation's independent public accountants concerning adjusted net income shall be conclusive.

The net income of the EREF shall be accumulated and added to principal until and including the last day of the first fiscal year in which the net fair market value of the fund, including principal and accumulated income, first exceeds \$250,000. Thereafter, there shall be such distributions, from time to time, from income or principal in such amounts as the EREF Management Committee shall determine, but such distributions shall be not less annually than 5% of the net fair market value of the fund (including principal and accumulated income) determined as of the last day of the preceding fiscal year.

The EREF Management Committee shall be composed of 9 members consisting of the Surgeon-In-Chief, the Chiefs of Urology, Ophthalmology, Plastic Surgery, Cardio-Thoracic Surgery, the Research Laboratory Coordinator, the House Staff Coordinator, the Teaching Coordinator and the Group Administrator. Rules relating to meetings, notice, quorum and actions shall be the same as those set forth in Article III above, with respect to the Directors.

Distributions from the EREF shall be exclusively for research and fellowship grants to individuals, grants to the Corporation, Brigham and Women's Hospital, Harvard Medical School, or other similar organizations to defray administrative expenses relating to the selection, supervision, evaluation and counseling of medical students and surgical residents, and grants to the Corporation, Brigham and Women's Hospital, Harvard Medical School or other similar organizations to support surgical teaching activities which are not otherwise adequately supported (such as lectures and seminars, and clinical procedures which are not productive of significant revenues).

The EREF Management Committee will generally supervise the investment of the fund, provided, that day-to-day investment management and administration of the fund shall ordinarily be entrusted to a competent professional investment management organization whenever the size of the fund is sufficient, in the opinion of the EREF Management Committee, to warrant the fees involved.

The product of any research performed under and EREF grant (including any copyright or patent rights) shall be the property of the Corporation, although authorship credits and a reasonable share of any royalties or other revenues may be awarded to grant recipients upon such terms as the EREF Management Committee may deem advisable and proper. All research and teaching done under the auspices of the EREF shall be under the supervision of the Corporation and in accordance with its academic standards and goals. The EREF shall not be used merely to supplement the compensation of Members of the Corporation or to subsidize their salaries; however, in a proper case, the Corporation or a Member of the Corporation is not disqualified from being the recipient of an EREF grant, it being the intent of the EREF to provide support for educational and scientific activities relating to the fields of surgery which are not substantially supported by revenues from patient care services.

A true record.

ATTEST: /s/Mitchell H. Jacobs

DATE: 12/22/76